

APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

January 14, 2009

I. ROLL CALL

Present: Larry Ciardella and Gurdev Sandhu
Staff: Ah Sing, Andrade, Barbey, and Brown

1. MINOR SITE DEVELOPMENT PERMIT NO. MS08-0029

Tiffany Brown, Junior Planner, presented a request to have 4 quarterly outdoor events all starting at 3:00 p.m. and ending at 6:00 p.m., located within the Linear Technology parking lot at 790 Sycamore Avenue. Ms. Brown recommended approving Minor Site Development No. MS08-0029 subject to the Conditions of Approval.

Motion to approve Minor Site Development Permit No. MS08-0029.

M/S: Ciardella, Sandhu

AYES: 2

NOES: 0

II. ADJOURNMENT

This meeting was adjourned at 6:36 p.m.

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I. PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL/SEATING OF ALTERNATE

Present: Aslam Ali, Larry Ciardella, Alex Galang, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, and Cliff Williams
Staff: Ah Sing, Andrade, Barbey, Brown, Hom, Lindsay, Otake, and Reliford

III. PUBLIC FORUM

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Frank De Smidt, Rotary Club and Chamber of Commerce, announced the Milpitas Rotary Club Gene Schwab Awards luncheon on Monday, January 26, 2009 at 12 noon. He also announced the 16th Annual Milpitas Chamber of Commerce Crab Feed on Friday, March 6, 2009 at 6:00 p.m.

Mr. Weller, stated he will be attending the Planning Commission meetings. He attended the opening of the new Library and noticed there is only one bench or chair for the elderly. He also noticed that the Senior Center directly across from the Library does not have any seating area. He suggested taking the property to the North of the library and making a small park.

IV. APPROVAL OF MINUTES December 10, 2008

Chair Williams called for approval of the minutes of the Planning Commission meeting of December 10, 2008.

There were no changes to the minutes.

Motion to approve the minutes of December 10, 2008 as submitted.

M/S: Sandhu, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

V. ANNOUNCEMENTS

Sheldon Ah Sing, Senior Planner, announced the 2009 Planners Institute and Mini Expo from March 25 – 27, 2009. The deadline for registration is February 24, 2009. Chair Williams welcomed Commissioner Ali as a full Commissioner.

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**VI.
CONFLICT
OF INTEREST**

Assistant City Attorney Bryan Otake asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. Commissioner Sandhu stated he is involved with the Sinkh Foundation of Milpitas that is next to the building of SVCC Temple (Item 5). Assistant City Attorney Otake stated if this item stays as a discussion item Mr. Sandhu would need to leave the dais. If an item is placed on the consent calendar, one does not need to leave the dais but is not able to vote.

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Mr. Ah Sing recommended placing Item 5 on the consent calendar and the recommendation would remain the same.

Chair Williams asked for a motion to add Item 5 to the consent calendar.

Motion to add Item 5 to the consent calendar.

M/S: Mandal, Ciardella

AYES: 6

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Sandhu)

Motion to approve the consent calendar on Item No. 1 and Item No. 7.

M/S: Mandal, Sandhu

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

- *1. MINOR TENTATIVE MAP NO. MI2007-1:** A request for a two-lot subdivision on an existing 3.1 acre parcel for a commercial center located at 100 N. Milpitas Blvd. (APN: 028-12-021), zoned Town Center with Site and Architectural Overlay (TC-S). Applicant: Shapell Homes. Staff Contact: Tiffany Brown (408) 586-3283. PJ # 2482. *(Recommendation: Adopt Resolution No. 09-004 approving the project subject to conditions of approval.)*
- *7. SITE DEVELOPMENT PERMIT ADMENDMENT NO. SA09-0001:** A request to amend Conditions of Approval No. 7, 42, 43, 44, and 45 to provide consistency with the Owner's Participation Agreement dated April 17, 2007, located at 1666 South Main Street. (APN: 086-22-023), zoned Multi-Family Very High Density/Multi-Family Very High Density (R4). Applicant: Global Premier. Staff Contact: Cindy Hom (408) 586-3284. PJ # 3199. *(Recommendation: Adopt Resolution No. 09-005 approving the project subject to conditions of approval.)*

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Motion to continue Item No. 2 to the January 28, 2009 meeting.

M/S: Ciardella, Galang

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

***2. MAJOR TENTATIVE MAP NO. MT08-0002, CONDITIONAL USE PERMIT NO. UP08-0046, DEVELOPMENT AGREEMENT, OWNER PARTICIPATION AGREEMENT, AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA08-0005:** A request to subdivide a 24 acre site into nine (9) parcels for condominium purposes, establish building setbacks, improve existing roads, construction of a new local street, and create an urban plaza and public trail along Penitencia Creek. The project contemplates the future development of 1,573 dwelling units through a 10% density bonus for affordable housing over the entire project and an additional 25% transit density bonus on the properties zoned MXD2. Commercial space totaling 92,757 square feet is also contemplated on three (3) parcels within mixed use buildings. The project also includes a Development Agreement and an Owner Participation Agreement requesting financial assistance from the Redevelopment Agency. The project is located at the intersection of Great Mall Parkway and McCandless Drive (1315 McCandless Drive) (APNs: 086-33-092, 086-33-093, 086-33-094, 086-33-095, 086-33-098, 086-33-099, and 086-33-101), zoned a combination of Residential – Retail High Density Mixed Use and High Density Transit Oriented Residential with Site and Architectural Overlay (MXD2-S and R3-S). Applicant: Integral. Staff Contact: Sheldon S. Ah Sing (408) 586-3278. PJ # 3222. *This item was continued from the December 10, 2008 meeting at which the public hearing was opened. (Recommendation: Continue the public hearing to the January 28, 2009 Planning Commission meeting.)*

Motion to close the public hearing on Item 3.

M/S: Ciardella, Mandal

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Motion to re-notice the public hearing on Item 3 and acknowledge a request to amend the underlining development agreement.

M/S: Mandal, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

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***3. MAJOR TENTATIVE MAP NO. MT08-0001, SITE DEVELOPMENT PERMIT NO. SZ07-0002, CONDITIONAL USE PERMIT NO. UP08-0045, AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA08-0004:** A request to develop an existing office campus by maintaining the existing buildings and parking lot and adding 424,814 square feet of office space in six, five story buildings and constructing an elevated parking deck. When built out, the total square footage of the campus would be 1,415,814 square feet. Because of potential environmental impacts stemming from the project, the project is subject to an Environmental Impact Report. The project is located at 205 N. McCarthy Ranch Boulevard (APNs: 022-56-005 through 009), zoned Industrial Park with Site and Architectural Overlay (MP-S). Applicant: Equity Office. Staff Contact: Sheldon S. Ah Sing (408) 586-3278. PJ # 3223. *This item was continued from the December 10, 2008 meeting at which the public hearing was opened. (Recommendation: Close the public hearing and table the item, staff will re-notice the public hearing to acknowledge a request to amend the underlining development agreement.)*

Motion to close the public hearing on Item 5.

M/S: Tabladillo, Ciardella

AYES: 6

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Sandhu)

Motion to re-notice the public hearing on Item 5.

M/S: Tabladillo, Ciardella

AYES: 6

NOES: 0

ABSENT: 0

ABSTAIN: 1 (Sandhu)

***5. CONDITIONAL USE PERMIT NO. UP08-0036:** A request to locate a new 2,900 square foot religious facility within an R&D building in the Venture Commerce Center Business Park located at 1160 Cadillac Court. (APN: 022-38-025), zoned Industrial Park with Site and Architectural overlay (MP-S). Applicant: SVCC Temple. Staff Contact: Tiffany Brown (408) 586-3283. PJ # 2552. *(Recommendation: Close the public hearing and table the item, staff will re-notice the public hearing.)*

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**IX.
PUBLIC HEARING**

**4. SITE DEVELOPMENT
PERMIT NO. SD08-004
AND CONDITIONAL
USE PERMIT NO. UP08-
0023**

Cindy Hom, Assistant Planner, presented a request to demolish an existing 1,490 square foot veterinary office and 1,210 square foot care taker's residence, existing site improvements, and the removal of seven non-protected trees to accommodate the construction and operations of a new 5,002 square foot child care center and related site improvement located at 1312 S. Main Street. Ms. Hom recommended to Adopt Resolution No. 09-002 recommending approval to the City Council, subject to conditions of approval.

Vice-Chair Mandal asked about the parking situation. Ms. Hom stated generally child care facilities are low traffic generating; this project does need a transportation demand management program.

Commissioner Tabladillo is concerned for a safe pathway for families walking their children to the child care center. Ms. Hom stated that there are existing sidewalk improvements being made.

Commissioner Tabladillo asked about the materials being used in the play area. She wants to make sure the products are non-toxic.

Commissioner Ciardella asked about the height and location of the fence. Ms. Hom stated that the fence would be 6 feet high and in the back of the property. Commissioner Ciardella suggested the fence be higher than 6 feet.

Commissioner Tabladillo stated that the business next to the child care center has flammable equipment. She wants to make sure that the children would be safe. Ms. Hom stated the project would adhere to the mitigation measures.

Commissioner Galang asked if there is adequate room to back out of the parking spaces. Ms. Hom stated yes.

Commissioner Ciardella asked if lunch would be provided at the center. Ms. Hom stated that there is no kitchen and that the lunch or snack would be brought in by the families.

Chair Williams asked if there are plans to replace the soil in that area since it was an animal care facility before. Ms. Hom stated in the assessment report there is no known contamination on the site. Chair Williams stated he did read report and it did not address bio matter. He wanted to know if it was an over site or not typically reported in this case. Mr. James Lindsay, Planning Director, stated in the Phase I study you typically look for known chemical hazards. This project has met all the environmental standards. Staff could research the item and bring it back to the Commission for further consideration.

Sal Caruso, 980 El Camino Real, Santa Clara, CA 95050, stated that the plans include bikes trails, bike lanes along the property, and narrowing of the lanes. He also stated that food would be provided by the parents. The drop off time isn't the same as regular school; it is a drop in as needed basis. Morning window is from 6:30 am – 9:30 a.m. The evening window is from 3:30 p.m. – 6:30 p.m. All viral and/or bacterial forms actually do decompose and cease to exist in a hazardous form usually in a few months. The prior facility has been closed for quite some time. In regards to the fence, children are not allowed in the play ground area without a fixed number of adults. The facility is a strictly highly supervised environment. The fence will be monitored and maintained regularly by the State. The children range from infants to about 3 to 4 years old.

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Commissioner Galang asked the difference between day care and child care. Mr. Caruso stated that a child care facility could also be done at home by having a state license with a limited number of children. Commissioner Galang asked what services are provided. Mr. Caruso said learning activities, rest time, story telling time, and play time. Commissioner Galang asked about the ages of the children. Mr. Caruso said they range from infants to about 4 years old. Commissioner Galang asked about the pick up times. Mr. Caruso said arrangement time is done by the parents. Parents must pick up their children in the school; children are not allowed to go to their vehicles by themselves. The employees are certified licensed teachers. The facility must have emergency plans and have medical trained personnel.

Commissioner Ciardella asked if the fence is an open fence. Mr. Caruso said it is a closed fence with a kick board. The fence will be inspected twice a year.

Commissioner Mandal asked about the bicycle parking. Mr. Caruso said there will be a bike rack that will hold 4 or 5 bicycles. Commissioner Mandal asked if there will be any program to encourage public transit. Mr. Caruso said every effort will be made to use public transit.

Commissioner Tabladillo asked about natural light. Mr. Caruso stated that the building has good natural light and air going throughout the building.

Commissioner Tabladillo wants to make that the play area is age appropriate. Mr. Caruso said that the children are not out at the same time. Commissioner Tabladillo also wants to make sure that the material in the play area is safe and make sure there is enough shade areas for the children. Commissioner Tabladillo asked if there is a viewing window for the parents. Mr. Caruso said that the Commission can put that as a condition.

Motion to close the public hearing.

M/S: Mandal, Sandhu

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Vice-Chair Mandal said as a condition to encourage proper bike facility and for the employees to be encouraged to use public transit.

Commissioner Tabladillo stated to have as a condition to have a canopy over the play area, every classroom from the hallway have a viewing window, have age appropriate play equipment, have natural light during the day, and to ensure to use environmentally non-toxic material for the play area.

Commissioner Ciardella would like to see a high quality thicker lumber for the fence to exceed 6 feet high.

Commissioner Galang asked if the drinking water was safe. Ms. Hom said yes, it is San Francisco Hetch-Hetchy water that would be provided.

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Motion to Adopt Resolution No. 09-002 approving the project subject to conditions of approval including those noted by staff.

M/S: Mandal, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

**X.
NEW BUSINESS**

**6. AMENDMENTS TO
THE TERRA SERENA
AGREEMENTS**

Felix Reliford, Principal Housing Planner, presented a request to amend the Disposition and Development Agreement, Memorandum Of Understanding, and Regulatory Agreement affecting affordable housing and off-site improvements. Mr. Reliford recommended to Adopt Resolution No. 09-005 recommending approval to the City Council and Redevelopment Agency Board.

Commissioner Sandhu asked who sets the income levels for low and moderate income. Mr. Reliford stated Housing and Urban Development (HUD) sets the levels. Mr. Lindsay stated that the affordable levels have to be at the low income level. By freeing up additional money, the redevelopment agency is able to better leverage this money to better assist more families.

Vice-Chair Mandal asked in-lieu of housing fee of \$37,000 per unit is that going to be paid to the City for units at one time. Mr. Reliford said it would be a total payment of 1.7 million dollars to the City for the developer getting out of unrestricting the units and not having them affordable and selling for whatever, the City feels they should get some benefit from that by releasing the developer of that obligation. Mr. Lindsay stated that that payment will not come to the developer only half of that will come to the redevelopment agency.

Commissioner Tabladillo asked how the \$37,000 comes to play in terms of in-lieu fee per unit. Mr. Reliford said it is the average level of subsidy.

Chair Williams asked if Parks fall under the redevelopment funding. Mr. Lindsay stated money is restricted to housing.

Motion to Adopt Resolution No. 09-005 recommending approval to the City Council and Redevelopment Agency Board.

M/S: Tabladillo, Ciardella

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

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**XI.
ADJOURNMENT**

Commissioner Sandhu requested adjourning the meeting in memory of Mr. Harvey breakfast coordinator of Sunnyhills Neighborhood Association for 47 years.

The meeting was adjourned at 9:35 p.m. to the next regular meeting of January 28, 2009.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

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